

Inventions in the Soviet Union

In the late 1950s the Soviet Union decided to develop a strong invention system, to take advantage of the technology available in other countries. The Soviets apparently decided at that time, and have so stated a number of times recently, that they felt it was better to license technology from other countries, than to develop their own or copy products of others. By using a licensing route, they could obtain the latest up-to-date technology without the usual time lag in developing their own and could, under many licensing arrangements, continue to update the technology developed by other countries.

As a result, on April 24, 1959, the Soviets enacted the Statute of Inventions, Discoveries and Rationalization (or Innovation) Proposals.¹ On December 8, 1961, a second Statute was passed, articles 100-116 of the Principles of Civil Legislation of the USSR and the Union Republic. In 1965 the Soviet Union ratified the International Convention for the Protection of Industrial Property (Paris Convention), a treaty involving most of the important industrial nations of the world, relating to industrial property rights, such as patents.

Thus, since the early 1960s the Soviets have developed what some consider the strongest patent system in the world. The Soviets themselves say it provides more incentives for the employed inventor than does the comparable American system.

The Soviet patent system is administered by the Committee on Inventions and Discoveries, which is subordinate to the very important State Committee for Science and Technology of the Council of Ministers. The chairman of the Committee of Inventions and Discoveries is Mr. Y. E.

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¹English language translation is available in the JOURNAL OF THE PATENT OFFICE SOCIETY (U.S.), pages 56-84, January, 1961.

Maksarev, a highly respected man in the Soviet Union, and a holder of six Orders of Lenin. Under his direction the Soviets have developed an extensive patent examining operation, which handles approximately the same number of inventions each year as does the U.S. Patent Office.

The Soviet invention system is composed of two main parts, a patent system similar to Western patent systems, particularly West Germany; and a very important system of inventors' or authors' certificates. The inventor's certificate is the heart of the domestic Soviet invention system. It is obtained in a fashion similar to obtaining a patent in the USSR or the US.

A patent expert prepares for the inventor, an application which is submitted to the patent-examining operation of the Committee on Inventions and Discoveries. The invention is searched by the patent examiner, and discussed, both orally and in writing, with the inventor's agent as to its novelty, usefulness, etc. Then, if the inventor prevails, a certificate is issued describing the invention and naming the inventor.

Patents are handled in an identical manner, and have the same standards for novelty over the prior art.

A major distinction between the inventor's certificate and the patent, is that the inventor's certificate is assigned to the State, while the patent is owned by the inventor or the party to whom he assigns it, as is the case in Western countries. This distinction of ownership is very important in the Soviet Union, since the inventor's certificate is referred to technical experts for their comments on its value and usefulness a few months after it is filed in the Patent Office. If it is found to be useful, it becomes the duty of the State, which owns the invention, to see that the technology is used.

A system to ensure use of the technology has been established within the Committee on Inventions and Discoveries. This Committee brings the new technology to the attention of the appropriate industrial "enterprise" and closely monitors the actual use of the invention. For example, letters are sent to enterprises inquiring about the amount of use of a particular technology. If the amount of use is not found to be sufficient, reasons for the lack of use are required.

An additional reason for monitoring use of the invention is that in the Soviet Union the holder of an inventor's certificate is rewarded according to the use of his invention and its savings. An inventor can receive up to the equivalent of \$22,000 from the State, and can receive additional money from his particular enterprise if he is instrumental in bringing the invention to actual use.

There are also a number of non-monetary incentives available. For example, housing for an individual in the USSR depends on his importance

to the State, and an inventor will be assigned to a better housing facility than a non-inventor. Also, a particularly prolific inventor can receive the title of "Distinguished Inventor" from a local state government (such as the Ukraine, Latvia, etc.). This title, as is true with many other titles in the Soviet Union, is quite highly regarded.

An additional incentive is the naming of an invention for the inventor. For example, a well-known brake in the Soviet Union is known as Matrosov's brake.

While it is clearly possible for a Soviet citizen to apply for a patent rather than for an inventor's certificate, this is rarely done. On the other hand, while it is possible for a foreigner to apply for an inventor's certificate rather than a patent, this rarely happens because the foreigner hopes to make more money from the patent than he can under the inventor's certificate.

The number of applications for inventors' certificates and patents, filed in recent years, and the number of inventors' certificates and patents issued, are set forth in Tables I and II below:

TABLE I

| Year | INVENTORS' CERTIFICATES FILED | | PATENTS FILED | |
|------|-------------------------------|------------------|-----------------------|------------------|
| | By Soviet Citizens | By Foreigners | By Soviet Citizens | By Foreigners |
| 1968 | 106,462 | 158 | 16 | 3,792 |
| 1969 | 114,446 | 102 | 6 | 4,444 |
| 1970 | 110,501 | 66 | 7 | 4,946 |

TABLE II

| Year | INVENTORS' CERTIFICATES ISSUED | | PATENTS ISSUED | |
|------|--------------------------------|------------------|-----------------------|------------------|
| | To Soviet Citizens | To Foreigners | To Soviet Citizens | To Foreigners |
| 1968 | 24,496 | 127 | - | 829 |
| 1969 | 25,859 | 59 | - | 715 |
| 1970 | 30,635 | 108 | 1 | 1,922 |

According to the Soviets, before a product is put into production, a thorough search is made to locate inventors' certificates or patents which might cover it. Part of the reason for this search is that the State and an organization called the Society of Inventors and Innovators, which has over a million members, are both determined to see that the inventor

receives his just rewards and that enterprises do not avoid paying the approved amounts to inventors when their inventions are used.

Before a product is exported, a search is also made to ensure that it will not infringe patents in the country to which it is being exported.

When dealing with the Soviets, it should be kept in mind that a patent or inventor's certificate is an official statement, in effect, that the invention is novel and useful. The certificate appears then, to be a helpful document to have in both licensing and selling products to the Soviet Union.

The Soviets do not issue patents on chemical products, medical compositions, foodstuffs and articles of refreshment and pure scientific discoveries. Processes for the manufacture of the above items, except the scientific discoveries, are patentable. However, the Soviets are considering revisions in their patent laws, one of which would make chemical products patentable as is the case in the United States. Inventor certificates, on the other hand, can be granted for novel methods of treating diseases and for medical compositions, foodstuffs and articles of refreshment which are obtained by non-chemical processes.

In the Soviet Union an invention must be novel over prior art developed any place in the world, not just in the Soviet Union. This is similar to the situation in the United States but different from several other countries, such as Great Britain and the Commonwealth countries, where a printed publication must be physically available in that country to be effective prior art.

Organizations which use the invention within the Soviet Union before the patent application has been filed, or which have made all the necessary preparations for use, retain the right to use of the invention without charge.

When attempting to get a patent in the Soviet Union, all non-resident applicants must be represented by the All-Union Chamber of Commerce, which maintains a staff of patent experts to deal with the Soviet Patent Office. Interestingly enough, the Soviets themselves must also use this Chamber of Commerce when they wish to file patent applications overseas. The Chamber of Commerce maintains people who are expert in the laws of various countries, including those knowledgeable about US laws, who deal with US patent attorneys for Soviet inventions.

As is true in the United States Patent Office, it is possible to interview the Soviet patent examiner in Moscow about a patent application; the Soviets are attempting to encourage such interviews so that the examiners will have a better understanding of the invention, and so that the inventor or his representatives may fully appreciate the position of the Soviet examiner.

The Official Gazette of the United States Patent Office, published every

Tuesday, contains abstracts of approximately 1,500 patents which are issued each week in the United States. This publication is not copyrighted and the Soviet Union, along with many other foreign countries, subscribes to it. The Soviets translate the abstracts and prepare a publication of their own; on one side of a page the United States inventions are described in English, and on the other side they are described in Russian. The Soviets print more copies of this document than the US prints of its Official Gazette, and distributes them widely to Soviet technical people within the Soviet Union as a source of information. This is also done with the patents of other countries.

By way of comparison, in the United States there are some services which provide translated abstracts, but they are usually quite expensive, although they are used by a number of large industrial concerns. In general, the technical information found in patents of other countries is not nearly as widely disseminated in the US as it is in the USSR.

One part of the Committee on Inventions and Discoveries is known as "Patent" (accent on the second syllable) Polygraphic Enterprise, which functions as a collection and distribution agency throughout the USSR for patent literature. It employs about 2,000 people, and maintains 21 branch offices throughout the USSR, with a fairly complete collection of all patents published worldwide in the past fifty years. This patent collection is duplicated in libraries in thirty cities and is available in the form of roll microfilm. Each branch office has microfilm readers and facilities for obtaining copies of these patents.

When a patented invention is of special importance to the State and the Soviets are not able to reach an agreement with the patent owner, the Council of Ministers may grant to a particular organization permission to use the invention, and the Council will establish the amount of remuneration to be paid to the patentee. While this is a theoretical and legal possibility, the author is aware of no instance in which this has happened to any patent owned by a Westerner.

As you may know, the United States has somewhat similar provisions in that the US Government may use any US patent for governmental purposes and, if an agreement cannot be reached, the owner can sue the Government in the Court of Claims for remuneration. There are also provisions such as those found in the Clean Air Act of 1970, which include conditions for compulsory licensing in certain instances.

Trade exhibitions are quite important in the Soviet industrial system, as a means of displaying new products and technology. Soviet law stipulates that if inventions are displayed at an appropriate International Exhibition in the USSR, the inventor is permitted to file a patent application with the

Committee on Inventions and Discoveries within six months of the date of exhibition, and his display at the exhibition will not defeat his invention rights.

The All-Union Research Institute of State Patent Examinations (the equivalent of the US Patent Office examination operation) employs about 1,100 examiners with technical expertise. They are divided into technical divisions and doing business with them is very similar to dealing with the US Patent Office.

The court system in the Soviet Union interprets what the executive branch has done, but never rules that what it has done is improper. Thus, it appears that rarely, if ever, will a patent be held invalid by the courts, and patent owners should not have the same validity problems in the Soviet Union that they presently do in the United States.

In the Soviet Union the life of a patent is 15 years from the filing date of the patent application. In the US it is 17 years from the issue date but there is legislation pending in Congress to change the life of a patent to 20 years. In the Soviet Union, as is true in most other countries, with the exceptions of the United States and Canada, a maintenance fee or tax is payable each year to maintain the patent. These fees may become quite substantial, and in the Soviet Union vary between \$55 and \$137 per year, with the total fees to maintain a patent for 15 years amounting to over \$2,700. The holder of an inventor's certificate, on the other hand, pays no fees to the Soviet Government at all, since the invention is owned by the State.

Inventor's certificates have an indefinite life, and thus the inventor may receive remuneration from the user of his invention indefinitely.

Americans find to their surprise, that in the Soviet enterprise or research institute, there exists an organization which performs the same function as do corporate patent departments of US corporations. The people in these departments have technical backgrounds and special patent training, although they are not lawyers as is usually the case in the US. They prepare applications for inventor's certificates, deal with the Soviet Patent Office in making arguments and amendments to the inventors' certificates, and conduct other patent prosecution activity. In addition, they spend a substantial amount of their time uncovering and evaluating inventions of the enterprise inventors, as well as making searches on all new products.

As of March 31, 1972, the American Bar Association's Patent, Trademark and Copyright Section had 4,096 attorneys, some of whom specialize rather in trademarks and copyrights than patents.

Suprisingly, the Soviet Union has 7,000 patent departments, many of which include a number of patent professionals. Thus, it is clear that the Soviet Union has more professionals representing inventors than does the US.

The Soviets are firm about the fact that the State does not permit infringement of a patent. They state that instead, they either design around the patent by modifying the invention, take a license from the patent owner, or stop making the product. They submit that in the Soviet Union it is easy to tell when someone infringes on another's patent, and the Committee for Inventions and Discoveries can easily check to see if patents are being infringed. However, the Soviets have expressed considerable concern about whether they could determine if one of their Soviet-owned patents was being infringed by a United States firm, since they have no real way of knowing what the US firms are doing.

Many Americans do not realize that the Soviets are using an invention system as an important part of their plan to develop new technology. Particularly surprising are the incentives provided for the employed inventor in the Soviet Union, to encourage his participation and to reward those who develop the best inventions.